IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6039 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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ANILBHAI R PATEL

Versus

RURAL DEVLOPMENT SCOEITY

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Appearance:

MR ANAND L SHARMA for Petitioner

NOTICE SERVED for Respondent No. 1

MS NANDINI JOSHI AGP for Respondent Nos.2 and 3.

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CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 20/01/2001

ORAL JUDGEMENT

1. By means of filing this petition under Article 226 of the Constitution, the petitioner who was appointed as a part time Mechanical Draft Drawing Instructor in the consolidated pay of Rs.200/- in M.J. Shah Technical

Institute and subsequently appointed as a full time Instructor with effect from December 1, 1981 in the pay scale of Rs.350-600, challenges the legality and validity of the high handed action on the part of respondent No.1, Rural Development Society, by which the petitioner is reverted from full time instructor to part time instructor without following the due procedure of law and against the principles of natural justice, by praying to issue a writ of mandamus or a writ in the nature of mandamus quashing and setting aside the action of the respondent No.1 of reducing the salary of the petitioner from time pay scale of Rs.350-600 to Rs.600 (consolidated) as fixed salary.

2. When the matter is called out, Mr. Anand L. Sharma, learned counsel for the petitioner and Ms. Joshi, learned AGP for respondents Nos.2 and 3 are present.

3. Ms. Joshi, on the basis of the communication dated August 9, 2000, addressed to the Government Pleader, High Court of Gujarat, by the office of the Director of Technical Education, states that the petitioner was not an employee of an institution recognized by the Director, Technical Education and, therefore, by way of compromise, the petitioner was paid two months salary for the months of April and May 1988 for relieving him from the service which has been accepted by the petitioner willingly and in token thereof he has issued receipts for the same. In this view of the matter, according to her, now nothing survives in this petition.

4. Mr. Sharma, learned advocate for the petitioner, states that he has no instruction in this matter from the petitioner since long. He, therefore, requests that appropriate orders may be passed on the basis of the communication addressed by the office of the Director of Technical Education to the Government Pleader, reserving liberty to revive the petition in case of any difficulty.

5. In view of the fact that as respondent No.1, the technical institute in which the petitioner was serving was not recognized, he was relieved from service after paying him two months salary for the months of April and May 1988 and as a token thereof he has also issued receipts, now this petition does not survive.

6. For the foregoing reasons, the petition fails and it is rejected reserving liberty to revive the petition in case of any difficulty. Rule is discharged with no

order as to costs. A copy of the communication dated August 9, 2000 dressed to the Government Pleader alongwith the receipts passed by the petitioner shall be retained on the record of the case.

20.1.2001. (A.M. Kapadia, J.)

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